

If a direct mail firm accepts the purchase orders outside of Illinois, and its printing and mailing operations are conducted outside of the State of Illinois, no power or control is generally exercised over the property shipped in Illinois. Therefore, no taxable use of the property would be made in Illinois. See 86 Ill. Adm. Code 150.305. (This is a GIL).

August 6, 2002

Dear Xxxxx:

This letter is in response to your letter dated May 15, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

Your help is needed in determining whether or not a sale to a potential future customer would be taxable. Our customer, 'Alphabet Company,' is headquartered in STATE1. Every month, we will print statements for Alphabet Company and mail them to Alphabet's customers in various locations throughout the country. All work performed by AAA is completed in STATE2.

Each month, AAA will bill the customer, 'Alphabet Company,' for the following transaction:

- AAA electronically receives a file from Alphabet Company via COMPANY transmission system.
- AAA receives the file, processes, and converts the information into a form read by our digital printers
- The files are sent to our digital printers and statement information is printed on pre-printed statement paper.
- Statements are then inserted along with a #9 return envelope into a #10 window envelope on our inserting equipment and postage is applied.
- The statements are then placed in mail tray in pre-sort order, strapped and taken to the Post Office. They are then mailed to Alphabet's customers.

Alphabet Company will then receive an invoice from AAA for the work described above. The steps described above will each be listed on a separate line on the invoice in the following manner:

<u>Item #</u>	<u>Description</u>	<u>Unit</u>	<u>Ordered</u>	<u>Shipped</u>	<u>Unit Price</u>	<u>Total</u>
	Customer Stmt					
Cust Stm	Records Printed	ea	90,000	90,000	.xxxx	xxxxx
Whan	Wham Net	ea	1	1	xxxxx	xxxxx
Insrts	Inserts	ea	1,500	1,500	xxxxx	xxxxx
Postage	Postage	ea	90,000	90,000	.xxxx	xxxxx

It is likely that AAA will be mailing Alphabet's statements to customers located in your state. Alphabet is questioning whether they would be charged sales tax on the above mentioned transaction.

Could you please make a determination as to whether we should charge Alphabet tax for those items mailed into your state. If so, would the entire transaction be taxable? Would certain items, such as postage, be exempt, if separately stated?

Your help in this matter is greatly appreciated. Should you need additional information in order to make a decision, please contact me.

#### **DEPARTMENT'S RESPONSE:**

When a printing company contracts to print custom printed materials, a special order printing situation exists and the transaction is subject to tax under the Service Occupation Tax Act. Who is liable for the tax in these situations depends upon the serviceman's activities. See the enclosed copy of 86 Ill. Adm. Code 140.101, regarding. Service Occupation Tax liability. We do not have sufficient information to determine your corporation's potential liability, but we hope the following information is helpful.

Under the Service Occupation Tax Act, businesses providing services (i.e. servicemen) are taxed on tangible personal property transferred as an incident to sales of service. See the enclosed copy of 86 Ill. Adm. Code 140.101. The purchase of tangible personal property that is transferred to the service customer may result in either Service Occupation Tax liability or Use Tax liability for the servicemen depending upon his activities. The serviceman's liability may be calculated in one of four ways: (1) separately stated selling price of tangible personal property transferred incident to service; (2) 50% of the servicemen's entire bill; (3) Service Occupation Tax on the servicemen's cost price if the servicemen are registered de minimis servicemen; or (4) Use Tax on the servicemen's cost price if the servicemen are de minimis and are not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act.

Under the Use Tax Act, donors who purchase tangible personal property and give it away make a taxable use of the donated property. See 86 Ill. Adm. Code 150.305(c). If the use occurs in Illinois, Use Tax liability (or, potentially, Service Use Tax liability, for custom printed materials) by the donor is incurred. However, if a direct mail firm accepts the purchase orders outside of Illinois, and its printing and mailing operations are conducted outside of the State of Illinois, no power or control is generally exercised over the property shipped in Illinois. Therefore, no taxable use of the property would be made in Illinois.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk  
Enc.